

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
FAYETTEVILLE DIVISION

UNITED STATES OF AMERICA

PLAINTIFF / RESPONDENT

v.

Civil No. 06-50004

MATEO VILLASENOR

DEFENDANT / PETITIONER

O R D E R

NOW on this 23rd day of April 2007, the above referenced matter comes on for the Court's consideration and the Court, being well and sufficiently advised in the matter, finds and orders as follows:

1. On January 17, 2007, Mateo Villasenor, petitioner, filed his **Motion To Vacate Sentence** (document #35) per 28 U.S. C. Section 2255. The United States responded to the motion by filing a response on February 20, 2007 (document #37). On that same date of February 20, 2007, the Court referred the matter to U.S. Magistrate Judge James R. Marschewski, for a Report and Recommendation to this Court concerning the disposition of the said motion.

2. While the matter was under consideration by the Magistrate Judge -- and some thirty days after the United States had filed a proper response to petitioner's motion -- petitioner filed with the Court a pleading called **Motion For Extension Of Time To File Reply** (document #39 -- hereinafter called "Motion For Extension"), in which he says that, because of circumstances beyond his control, he did not have a chance to file a "proper reply" to the Response of the United States. This motion for extension of time to file a reply was dated March 22, 2007, but not filed until April 2, 2007.

3. On March 23, 2007, the **Report and Recommendation of the**

Magistrate Judge -- dated March 22, 2007 (document #38 -- herein called R&R) -- was filed herein. The R&R provided that the parties would have ten (10) days from the receipt thereof within which to file written objections to the same. This R&R was filed before the Court had received or knew about petitioner's said Motion for Extension.

4. By a pleading dated the "5rd" (sic) of April, 2007, petitioner filed his **Objections to Report and Recommendations of March 22, 2007** (document #40).

5. On April 11, 2007, the United States filed its **United States' Response To Petitioner's Objection To Report And Recommendations By The United States Magistrate Judge** (document #41-1).

6. First, the Court will address petitioner's Motion for Extension.

Litigants may not file reply briefs with the Court as a matter of right and the Court neither invited nor permitted petitioner to do so in this instance. Moreover, the Court's review of petitioner's motion, the response of the United States and the R&R by the Magistrate Judge persuades it that the issues raised in this proceeding were fully developed by the pleadings and comprehensively addressed by the Magistrate Judge's R&R. Accordingly, the Court had no need for a reply from petitioner and would not have permitted one to be filed had petitioner requested such. The Motion for Extension, therefore, will be denied.

7. Turning now to the R&R; petitioner's objections thereto and the response of the United States to those objections, the Court finds that the petitioner's objections are without merit and should be

overruled. The Court further finds that nothing in the objections offer any basis -- either in law or fact -- which would require departure from the findings and recommendations in the said R&R. Accordingly, the said R&R should and will be adopted in toto.

IT IS THEREFORE ORDERED that the **Motion for Extension of Time to File Reply** (document #39) is **denied**.

IT IS FURTHER ORDERED that petitioner's objections to the said R&R be, and they hereby are, **overruled**.

IT IS FURTHER ORDERED that the **Report And Recommendation of the Magistrate Judge** (document #38) is **adopted in toto** and, pursuant thereto:

IT IS FURTHER ORDERED that the instant motion, filed under 28 U.S.C. § 2255, should be, and it hereby is, **dismissed with prejudice**.

IT IS SO ORDERED.

/s/ Jimm Larry Hendren
JIMM LARRY HENDREN
UNITED STATES DISTRICT JUDGE